

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHARLES E. WEBB and DEPARTMENT OF DEFENSE,  
DEFENSE LOGISTICS AGENCY, Lathrop, Calif.

*Docket No. 96-2384; Submitted on the Record;  
Issued August 13, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that he sustained an ulcer condition that was causally related to factors of his federal employment.

On June 26, 1995 appellant, then a 51-year-old materials examiner and identifier, filed an occupational disease claim, alleging that he sustained ulcer disease, extreme fatigue and an inability to digest food from forced overtime before and after surgery for removal of part of his stomach. Appellant reported that he first became aware of his condition September 3, 1993 and became aware it was causally related to his employment on March 31, 1995. In a supplemental statement, appellant indicated that beginning mid 1993 he was forced to work 12 hours a day, 5 days a weeks with some 8-hour Saturdays. He indicated that in September 1993 job-related stress from the forced overtime caused him stomach ulcers, fatigue and sleep disruption. Appellant underwent surgery in December 1993 and upon his return to work in January 1994 was again forced to work overtime despite medical advice against such work. He reported that this continued until March 31, 1995 when he collapsed at work and had to be hospitalized. When appellant returned to work on April 17, 1995, he alleged that his supervisor again requested that he work overtime.<sup>1</sup> By decision dated June 19, 1996, the Office denied appellant's claim on the grounds that the medical evidence of record failed to establish that the claimed ulcer condition was causally related to factors of his federal employment.

The Board has carefully reviewed the entire record on appeal and finds that appellant has not met his burden of proof in establishing that his ulcer condition was caused aggravated or exacerbated by factors of his federal employment.

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<sup>1</sup> In the Statement of Accepted Facts, the Office of Workers' Compensation Programs noted that appellant worked 58 hours of overtime between October 10 and November 6, 1993, worked 90 hours of voluntary overtime and 28 hours of mandatory overtime in 1994, worked 98 hours of voluntary overtime and 102 hours of mandatory overtime in 1995 and that the employing establishment strongly encouraged employees to work overtime so that any injury arising from either type of overtime would be compensable.

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.<sup>2</sup> The Board has held that the mere fact that a disease or condition manifests itself during a period of employment does not raise an inference of causal relationship between the condition and the employment.<sup>3</sup> Neither the fact that the condition became apparent during a period of employment nor appellant's belief that employment caused or aggravated his condition is sufficient to establish causal relationship.<sup>4</sup> While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty,<sup>5</sup> neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.<sup>6</sup>

In the present case, the Office denied appellant's claim based on its finding that the weight of the medical evidence rested with the second opinion examination and report of Dr. James F. Lineback, a Board-certified internist. In a report dated May 21, 1996, Dr. Lineback diagnosed chronic peptic ulcer disease, status post numerous ulcer surgeries, chronic abdominal pain, history of gastroparesis and history of gastrointestinal bleeding. He believed that appellant's peptic ulcer disease was not aggravated by overtime hours as he only worked an average of four hours of overtime per week in 1995 and an average of two and a half hours of overtime per week in 1994. Dr. Lineback felt that this amount of time was not excessive enough to significantly contribute to appellant's preexisting ulcer condition. Although appellant has challenged the doctor's findings which relied on a weekly average of overtime in reaching his conclusions, Dr. Lineback's conclusions are consistent with the statement of accepted facts and the itemization of appellant's overtime record provided by the employing establishment. He also indicated that appellant's stomach problems increased in September 1993 prior to the time he was forced to work 15 hours per week from October 10 to November 6, 1993. Dr. Lineback concluded that appellant's ulcer was not caused or aggravated by overtime hours since it flared up in 1989, approximately two years prior to the identified increase in stress at work. He reported that excessive overtime hours were contraindicated, however, appellant could work minimal overtime, *i.e.*, two to four hours per week, and advised that appellant should stop smoking which has been shown to increase the production of stomach acid.

Although appellant submitted numerous medical records, including the objective tests and records for his hospitalization in December 1993 and March 1995 and office notes from Dr. Steve Mitnick, a Board-certified internist and appellant's attending physician, only a letter and a medical report dated April 24 and October 30, 1995, respectively, specifically address the cause of appellant's ulcer condition. In his April 24, 1995 letter to appellant's supervisor,

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<sup>2</sup> *Williams Nimitz, Jr.*, 30 ECAB 567, 570 (1979); *Miriam L. Jackson Gholikely*, 5 ECAB 537, 538-39 (1953).

<sup>3</sup> *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

<sup>4</sup> *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

<sup>5</sup> *See Kenneth J. Deerman*, 34 ECAB 641 (1983).

<sup>6</sup> *See Margaret A. Donnelly*, 15 ECAB 40 (1963); *Morris Scanlon*, 11 ECAB 384 (1960).

Dr. Mitnick indicated that he had advised appellant in September 1994 that his hours should be limited to 10 hours a day for 4 days a week with no overtime as his symptoms became exacerbated with significant participation in overtime. Dr. Mitnick sought to enforce a no overtime restriction as increasing appellant's work load might lead to increased stress and possible reactivation of ulcer condition. In his October 30, 1995 report, he noted appellant's history of recurrent peptic ulcer disease and partial gastrectomy surgery and reported that undue stress "can" aggravate his gastrointestinal difficulties. The report and letter by Dr. Mitnick are not sufficient to overcome the well-reasoned and rationalized report by Dr. Lineback inasmuch as Dr. Mitnick has not fully addressed the central issue in this case. Dr. Mitnick has not provided a clear opinion which concludes there is a causal nexus between appellant's overtime work and his peptic ulcer condition. He generally indicates that overtime work causes appellant stress which may exacerbate his ulcer condition without explaining the basis for his conclusions or supporting his conclusions with specific physical and objective findings. On the other hand, Dr. Lineback has provided a thorough review of all of the medical evidence of record in conjunction with the statement of accepted facts and has indicated that appellant's preexisting condition was not caused, aggravated or exacerbated by his overtime work. This well-reasoned opinion constitutes the weight of the evidence in this case. Therefore, appellant has not met his burden of proof in establishing that his claimed conditions are causally related to factors of his federal employment.

The decision of the Office of Workers' Compensation Programs dated June 19, 1996 is hereby affirmed.

Dated, Washington, D.C.  
August 13, 1998

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Bradley T. Knott  
Alternate Member